

a total of \$1,090. If any additional fees are deemed necessary for time extensions or the filing of this RCE, please charge the same to Deposit Account No. 50-1419.

The Applicant hereby requests that the Eyal reference (U.S. Pat. No. 6,389,467) be removed as a prior art reference against this patent application based on prior invention by the Applicant. Specifically, the Declaration establishes conception of the invention prior to the effective date of the reference, coupled with due diligence from prior to said date to the filing of the Application.


Both the Invention Disclosure Form prepared in February 1999 (located at Tab 1 of the Declaration) and the initial draft of the patent application sent to the inventor in December 1999 evidence conception of the invention prior to the Eyal provisional filing date. Diligence is established during the critical period from January 24, 2000 to March 2, 2000 by the activities of the patent attorney, Kenneth J. Johnson, and the inventor. Particularly, Mr. Johnson mailed a draft of the application in late December of 1999 to the inventor. The inventor returned his comments back to Mr. Johnson and Mr. Johnson submitted a marked-up copy of the application on February 9, 2000 to his Word Processing Dept. for return to him on February 10, 2000. Between February 10, 2000 and February 21, 2000, Mr. Johnson arranged for formal documents to be prepared and mailed these to the inventor, along with a second draft of the application, on February 21, 2000. The inventor signed the formal documents on February 28, 2000 and returned them to Mr. Johnson. On March 2, 2000, Mr. Johnson filed the subject patent application.

As can be seen, the invention that is the subject of this patent application was conceived prior to the Eyal provisional filing date and diligence has been established during the critical period from the Eyal provisional filing date to the filing date of the subject application.

Accordingly, it is hereby requested that the Eyal reference be removed as prior art against this patent application. It is now respectfully submitted that the application is in condition for allowance and such action is hereby requested.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

Robert G. Crouch
Registration No. 34,806
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(720) 562-5506

Date: November 3, 2003